

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed

#### Rule making related to providers of family planning services

The Human Services Department hereby amends Chapter 87, “Family Planning Program,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 217.6 and section 217.41B as amended by 2018 Iowa Acts, Senate File 2418, section 83.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 217.6 and section 217.41B as amended by 2018 Iowa Acts, Senate File 2418, section 83.

#### *Purpose and Summary*

These amendments are in relation to a legislatively mandated change regarding distribution of funds and participating providers of the Family Planning Program (FPP).

Providers of family planning services will change to include a nonpublic entity that is a distinct location of a nonprofit health care delivery system, if the distinct location provides family planning services but does not perform abortions or maintain or operate as a facility where abortions are performed.

FPP members may be affected by these amendments because the provider network may expand. Additional providers will be eligible to participate in the FPP.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3910C**. The Department received comments from one respondent during the public comment period. The summarized comments and the Department’s response are as follows:

**Comment:** The respondent stated that their understanding of this change is to allow a small number of providers back in to the Family Planning Program (FPP) and that given this understanding, the respondent supports the amendments. But the respondent stated further that at its core, this program still eliminates a significant number of family planning providers available for participants in the program. Based on the very limited data available, the respondent believes that the number of patients enrolled in the program and providers offering services has dropped significantly, and that this underscores the need for that data to be tracked and publicly reported on an ongoing basis to allow lawmakers and the Department to understand the effectiveness of the current program.

The respondent stated that it is promising to see the legislature take interest in Iowans’ reproductive and sexual health care and include more providers in the FPP, but that as it stands, the FPP has thus far failed to accomplish the outcomes of its previous iteration, the Iowa Family Planning Network (IFPN), and has created an environment of a contraceptive desert in Iowa.

The respondent expressed support for the amendments, but sent caution to the Administrative Rules Review Committee and the Iowa Legislature. The respondent encouraged the legislature to ensure Iowans’ access to high-quality family planning services at the provider of their choice in the FPP.

**Department response:** The purpose of the amendment to state law was to continue offering family planning services and continue to restrict financial support only to eligible providers, which now includes a provider at a distinct location of a nonprofit health care delivery system, if the distinct location provides family planning services but does not perform abortions or maintain or operate as a facility where abortions are performed.

As defined in legislation, a “nonprofit health care delivery system” means an Iowa nonprofit corporation that controls, directly or indirectly, a regional health care network consisting of hospital facilities and various ambulatory and clinic locations that provide a range of primary, secondary, and tertiary inpatient, outpatient, and physician services.

The Department did not change the proposed amendments based on the respondent’s comments. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on September 12, 2018.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

#### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

#### *Effective Date*

This rule making will become effective on November 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 87.7(1) as follows:

**87.7(1) *Distribution of funds.*** Distribution of family planning services program funds shall be made to eligible, approved, and participating family planning providers subject to rule 441—87.11(217). Eligible family planning providers shall not include any provider that performs abortions or that maintains or operates a facility where abortions are performed and must attest to this fact. Effective July 1, 2018, eligible family planning providers shall be interpreted to include a distinct location of a nonprofit health care delivery system, if the distinct location provides family planning services but does not perform abortions or maintain or operate as a facility where abortions are performed. For the purposes of this subrule, “nonprofit health care delivery system” means an Iowa nonprofit corporation that controls, directly or indirectly, a regional health care network consisting of hospital facilities and various ambulatory and clinic locations that provide a range of primary, secondary, and tertiary inpatient, outpatient, and physician services. For the purposes of this subrule, “abortion” does not include any of the following:

*a. and b.* No change.

ITEM 2. Amend subrule 87.11(1) as follows:

**87.11(1)** Providers must be enrolled with the Iowa Medicaid program, subject to rule 441—79.14(249A), and otherwise qualified to provide family planning services under Medicaid, subject to the limitations related to abortions, as specified above under subrule 87.7(1). Effective July 1, 2018,

as a condition of eligibility as a provider under the family planning services program, each distinct location of a nonprofit health care delivery system shall enroll in the program as a separate provider, be assigned a distinct provider identification number, and complete an attestation that abortions are not performed at the distinct location. For the purposes of this subrule, “nonprofit health care delivery system” shall have the same meaning as provided under subrule 87.7(1).

ITEM 3. Amend **441—Chapter 87**, implementation sentence, as follows:

These rules are intended to implement 2017 Iowa Acts, House File 653, section 90 Iowa Code section 217.41B as amended by 2018 Iowa Acts, Senate File 2418, section 83.

[Filed 9/12/18, effective 11/14/18]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.